

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JASON JENNINGS MELTON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Nos. 3:10-cr-126, 3:18-cv-347
Judge Phillips

MOTION FOR EXTENSION *NUNC PRO TUNC*

The United States of America hereby requests an extension of 120 days, *nunc pro tunc*, in which to respond to petitioner's motion pursuant to 28 U.S.C. § 2255.

On August 18, 2018, petitioner filed a motion under 28 U.S.C. § 2255 which purported to rely upon *Johnson v. United States*, 135 S. Ct. 2551 (2015). (R. 131, § 2255 Memorandum.) Because petitioner cited *Johnson*, the response of the United States was due on September 17, 2018, pursuant to Standing Order 16-02. The undersigned attorney was assigned to prepare the response, because the attorney who initially prosecuted petitioner transferred to another job in another state. Although the undersigned attorney promptly filed a motion for substitution, she inadvertently overlooked the response deadline, due to the volume of other cases she was then handling. Indeed, since petitioner filed his motion, the undersigned attorney has written more than 40 other § 2255 responses and approximately one dozen appellate briefs, in addition to editing several dozen briefs, motions, and responses by other attorneys.

The United States remains committed to timely discharging its obligations to the Court and the interests of justice, and the undersigned attorney deeply regrets having missed the deadline in this case. She has remedied her earlier omission by preparing and filing a response

contemporaneously with this motion. An extension of 120 days, *nunc pro tunc*—that is, up to January 15, 2019—would render that response timely filed.

Respectfully submitted,

J. Douglas Overbey
United States Attorney

By: s/ Debra A. Breneman
Debra A. Breneman
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that on January 15, 2019, this response was filed electronically and that a true copy was sent to petitioner by regular United States mail, postage prepaid, addressed as follows:

Jason Jennings Melton
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s/ Debra A. Breneman
Debra A. Breneman
Assistant United States Attorney